

**EXHIBIT B**

**From:** Steve Schwarz sschwarz@faraci.com  
**Subject:** RE: [External] Marcellin v. HP, Inc. et al  
**Date:** September 25, 2023 at 5:43 PM  
**To:** Christopher Betke cbetke@coughlinbetke.com  
**Cc:** Matthew Belanger mbelanger@faraci.com, Catherine D. Aughey caughey@faraci.com, mmastriano@pmtlawfirm.com, jschulman@pmtlawfirm.com, Benjamin Levites blevites@coughlinbetke.com, Jaclyn Wanemaker jwanemaker@smithsovik.com, Teagan C. Dolan tdolan@faraci.com, Tiffany Incardona tincardona@smithsovik.com

I will look at her testimony, but I do not recall that being it and in addition, I can assure you with complete confidence that the battery she purchased whenever she purchased it was in the Compaq in the closet when it was destroyed in the fire. So we do not have that battery pack and can not provide it. I thought we had previously made that clear in the interrogatory answers so that was why we interpreted your request as for the only battery pack we have. That was my error. The only battery pack we have is the one that was in the HP that caused the fire. I assume you do not want to look at the only battery pack we have, since your expert was there to inspect it the first time. We will cancel the 28<sup>th</sup>.



**Stephen G. Schwarz, Esq.**  
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**From:** Christopher Betke <cbetke@coughlinbetke.com>  
**Sent:** Monday, September 25, 2023 12:15 PM  
**To:** Steve Schwarz <sschwarz@faraci.com>  
**Cc:** Matthew Belanger <mbelanger@faraci.com>; Catherine D. Aughey <caughey@faraci.com>; mmastriano@pmtlawfirm.com; jschulman@pmtlawfirm.com; Benjamin Levites <blevites@coughlinbetke.com>; Jaclyn Wanemaker <jwanemaker@smithsovik.com>; Teagan C. Dolan <tdolan@faraci.com>; Tiffany Incardona <tincardona@smithsovik.com>  
**Subject:** RE: [External] Marcellin v. HP, Inc. et al

[EXTERNAL: This email originated from outside of the organization.]

Hi Steve: I am not looking to ascribe fault. Stuff happens. The battery pack we are seeking to examine by virtue of our request for production of tangible things is the battery pack that you client purports to have purchased. I believe that there may be a discrepancy regarding when she purchased it. On pp.97-98 she testified that she purchased it in 2015. But, then you testified that you thought that it would be a big jump and too low of a price. See also, p. 98. Therefore, to avoid confusion and the conflict between your testimony and the plaintiff's testimony – please consider our request for the replacement battery that the plaintiff claims she purchased for the Compaq computer. That is what our request is for. Please respond to that request. If you would like us to revise it and send that to you, we will if that will help. Thanks. Chris

CHRISTOPHER G. BETKE

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**From:** Steve Schwarz <[sschwarz@faraci.com](mailto:sschwarz@faraci.com)>  
**Sent:** Friday, September 22, 2023 11:30 AM  
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**Subject:** RE: [External] Marcellin v. HP, Inc. et al

Chris

I don't know what caused the confusion, and am sure it is probably my fault, but Carol Marcellin bought a replacement battery for the old Compaq at some point in the early 2000s I believe which was in the Compaq in the closet at the time of the fire and was destroyed with the Compaq. The only battery pack we have possession of is the one that caused the fire in the HP laptop. If you want to do a further inspection of either that battery pack or the HP laptop it was in when the fire started, we have made arrangements for you to do so at our experts' offices on the 28<sup>th</sup>. If you don't want to do that, please let us know so we can advise our experts.

I'm at meetings all day today out of town so if you want to meet and confer over whatever caused this misunderstanding, we can schedule something next week.

Steve

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**From:** Christopher Betke <[cbetke@coughlinbetke.com](mailto:cbetke@coughlinbetke.com)>  
**Sent:** Thursday, September 21, 2023 3:29 PM  
**To:** Steve Schwarz <[sschwarz@faraci.com](mailto:sschwarz@faraci.com)>  
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 Marcellin v. HP, Inc. et al



[Redacted from outside of the organization.]

Steve: Your client said she had a 1990s Compaq computer. She also said that in 2015 she purchased an aftermarket battery – not for the newer HP computer – but for her 1990s computer. Again, as stated in our request, we asking that plaintiff produce: “The computer battery pack allegedly purchased by Plaintiff in 2015 referred to in Plaintiff’s answers to interrogatories.” Since your client contends she never purchased a battery pack for the HP, we are not, by this request, requesting that be produced. Please respond to *that* request. Thank you. Chris

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**From:** Steve Schwarz <[sschwarz@faraci.com](mailto:sschwarz@faraci.com)>**Sent:** Thursday, September 21, 2023 3:17 PM**To:** Christopher Betke <[cbetke@coughlinbetke.com](mailto:cbetke@coughlinbetke.com)>**Cc:** Matthew Belanger <[mbelanger@faraci.com](mailto:mbelanger@faraci.com)>; Catherine D. Aughey <[caughey@faraci.com](mailto:caughey@faraci.com)>; [mmastriano@pmtlawfirm.com](mailto:mmastriano@pmtlawfirm.com); [jschulman@pmtlawfirm.com](mailto:jschulman@pmtlawfirm.com); Benjamin Levites <[blevites@coughlinbetke.com](mailto:blevites@coughlinbetke.com)>; Jaclyn Wanemaker <[jwanemaker@smithsovik.com](mailto:jwanemaker@smithsovik.com)>; Teagan C. Dolan <[tdolan@faraci.com](mailto:tdolan@faraci.com)>; Tiffany Incardona <[tincardona@smithsovik.com](mailto:tincardona@smithsovik.com)>**Subject:** RE: [External] Marcellin v. HP, Inc. et al

I'm sorry for the confusion. The battery pack our expert has is the one that was in the computer when the fire started, which is the one that was in the laptop when our client purchased it. I had understood that HP inspected both the computer and the battery pack in a joint inspection prior to the action being commenced. If I am wrong about that, then that is what may have caused your confusion.

Attached is an email with information on the location or our expert's lab where your expert can inspect the battery pack that was in the computer when the fire started on 9/28 beginning at 9 am. Please confirm that you wish to do the inspection on that date.

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**From:** Christopher Betke <[cbetke@coughlinbetke.com](mailto:cbetke@coughlinbetke.com)>**Sent:** Thursday, September 21, 2023 2:10 PM**To:** Steve Schwarz <[sschwarz@faraci.com](mailto:sschwarz@faraci.com)>**Cc:** Matthew Belanger <[mbelanger@faraci.com](mailto:mbelanger@faraci.com)>; Catherine D. Aughey <[caughey@faraci.com](mailto:caughey@faraci.com)>; [mmastriano@pmtlawfirm.com](mailto:mmastriano@pmtlawfirm.com); [jschulman@pmtlawfirm.com](mailto:jschulman@pmtlawfirm.com); Benjamin Levites <[blevites@coughlinbetke.com](mailto:blevites@coughlinbetke.com)>; Jaclyn Wanemaker <[jwanemaker@smithsovik.com](mailto:jwanemaker@smithsovik.com)>; Teagan C. Dolan <[tdolan@faraci.com](mailto:tdolan@faraci.com)>; Tiffany Incardona <[tincardona@smithsovik.com](mailto:tincardona@smithsovik.com)>**Subject:** RE: [External] Marcellin v. HP, Inc. et al

[EXTERNAL: This email originated from outside of the organization.]

Dear Steve: I am confused by your response. The battery we are requesting plaintiff produce is: "The computer battery pack allegedly purchased by Plaintiff in 2015 referred to in Plaintiff's answers to interrogatories." Your email below suggests that we would be inspecting the battery "again." However, the only battery pack and cells that we have been able to inspect are those that allegedly came out of the HP notebook at issue. However, your client has maintained that she did not put the after-market battery she purchased in the HP computer. Thus, how could we be inspecting it "again"? We have never inspected that battery pack. Or are you saying that your client now remembers putting it in the HP notebook? Please clarify. Thank you for your anticipated cooperation. Best, Chris

**CHRISTOPHER G. BETKE****PARTNER**

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**From:** Steve Schwarz <[sschwarz@faraci.com](mailto:sschwarz@faraci.com)>

September 21, 2023 11:31 AM

**Faraci Lange**

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Chris

Attached is Plaintiffs' Response to Defendant HPs request to inspect the battery again as well as the old Compaq computer (which was destroyed in the fire and is not in our possession). We will make the battery available to your expert for inspection in Sodus, NY where it has remained in the custody of our expert. We are checking to see if the 28<sup>th</sup> is an available date and will get back to you on that shortly. If its not, we will provide other dates.

Steve

**Stephen G. Schwarz, Esq.**  
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**From:** Christopher Betke <[cbetke@coughlinbetke.com](mailto:cbetke@coughlinbetke.com)>**Sent:** Thursday, September 21, 2023 9:58 AM**To:** Tiffany Incardona <[tincardona@smithsovik.com](mailto:tincardona@smithsovik.com)>; Steve Schwarz <[sschwarz@faraci.com](mailto:sschwarz@faraci.com)>**Cc:** Matthew Belanger <[mbelanger@faraci.com](mailto:mbelanger@faraci.com)>; Catherine D. Aughey <[caughey@faraci.com](mailto:caughey@faraci.com)>; [mmastriano@pmtlawfirm.com](mailto:mmastriano@pmtlawfirm.com);<[jschulman@pmtlawfirm.com](mailto:jschulman@pmtlawfirm.com)>; Benjamin Levites <[blevites@coughlinbetke.com](mailto:blevites@coughlinbetke.com)>; Jaclyn Wanemaker <[jwanemaker@smithsovik.com](mailto:jwanemaker@smithsovik.com)>**Subject:** RE: [External] Marcellin v. HP, Inc. et al

[EXTERNAL: This email originated from outside of the organization.]

Steve: I understand the response to our request for the production of tangible things is not due for a few days but I wanted to see if you expected to produce the physical evidence on Sept. 28 @ Smith Sovik? The only reason why I am asking now is because I have an expert standing by and will tell him not to hold that date if you do not intend to produce the items on that date. Let me know. Thanks.

Best, Chris

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**From:** Tiffany Incardona <[tincardona@smithsovik.com](mailto:tincardona@smithsovik.com)>  
**Sent:** Friday, August 25, 2023 12:10 PM  
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**Subject:** Marcellin v. HP, Inc. et al

Dear Mr. Schwarz,

Please see attached submitted on behalf of defendant, HP, Inc.

**Tiffany Incardona**

Assistant to Alan J. Bedenko, Esq. and Jaclyn S. Wanemaker, Esq.  
[tincardona@smithsovik.com](mailto:tincardona@smithsovik.com)



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